THE HON'BLE SRI G.S.SINGHVI, CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No. 17191 of 2006

Between:

H.Kankaiah

…Petitioner

And

The Government of Andhra Pradesh, represented
By its Principal Secretary, Industries and Commerce
Department, Hyderabad and others.

…Respondents.

Counsel for the petitioner: Sri J.U.M.V.Prasad

Counsel for the respondents:

Dated: 23-8-2006

:Order:

Per G.S.Singhvi, CJ

The petitioner, who claims to be the owner of land bearing Survey Nos. 218 and 219 situated at Kapra village, Keesara Mandal, Ranga Reddy District has filed this petition on 17-8-2006 in the name of public interest litigation for quashing order dated 7-9-2002 issued by the State Government under Section 48 (1) of the Land Acquisition Act, 1894 (for short 'the Act') for release of Ac.11-03 guntas of land comprised in Survey No. 220 and Ac.8-31 guntas comprised in Survey No.221 from acquisition.

In the affidavit filed by him, the petitioner has averred that even though the land in question was acquired for Nuclear Fuel Complex (NFC), possession thereof remained with the predecessors of respondent Nos.3 to 6 right from 1967. Subsequently, on a representation made by respondent Nos.3 to 6 and no objection given by the authorities of NFC, the State Government passed the impugned order. In paragraphs 4 and 5 of his affidavit, the petitioner has made the following averments:

> "4. On my enquiries with the revenue authorities, I came to know that there was an occasion for this Hon'ble Court and the Hon'ble Supreme Court to consider the said G.O. as the present G.O. is also substantial issue in the earlier writ petition filed by one of the original owner. The said writ petition was dismissed and ultimately the matter was carried to the Hon'ble Supreme Court of India by way of a Special Leave Petition and the said SLP was also dismissed. In effect, the G.O.Ms.No.375 dated 7-9-2002, which is under challenge in this writ petition was not set aside. This Hon'ble Court as well as the Hon'ble Supreme Court did not consider the G.O. in proper perspective, hence, the said G.O. is liable to be set aside.
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> 5. I further submit that the subject matter of land has got high

potentiality and acquired for the purpose of Nuclear Fuel Complex. The very withdrawal of the said lands in favour of respondent Nos.3 to 6 is bad, arbitrary, mala fide, discriminatory and against the public interest. The stand of the Government that the withdrawal of lands in favour of respondents 3 to 6 is only consequential in nature issued in consequence to their already acquired title in view of their alleged continuous and longstanding possession, cannot be appreciated. The further stand of the Government that it cannot succeed in the event of any litigation and hence issued G.O. after collecting the land price is also incorrect. The State authorities without applying their mind in proper perspective, mechanically issued G.O.Ms.No.375, which is detrimental to the interest of the Government. The unofficial respondents have already alienated the land to third parties by taking undue advantage of the said G.O. I submit that I have no interest over the said land. Since I am residing in the locality, as such, I am filing the present writ petition by way of public interest litigation."

Sri J.U.M.V.Prasad, learned counsel for the petitioner argued that the impugned order is an act of favouritism and, therefore, the same is liable to be quashed moreso because release of land would be gravely injurious to public interest.

In our opinion, there is no merit in the submission of the learned counsel and the writ petition is liable to be dismissed being a piece of frivolous litigation. As per his own showing, the petitioner owns land adjacent to Survey No.220 and 221 belonging to respondents 3 to 6. This assertion is sufficient to draw an inference that he was aware of order dated 7-9-2002 passed by the Government for release of land in favour of respondents 3 to 6. Notwithstanding this, he kept quiet for a period of 3 years and 11 months before instituting this petition. The petitioner has not even made an effort to explain the long delay of more than 3 years and 11 months. Therefore, there is no escape from the conclusion that he is guilty of laches and is liable to be non-suited on this ground.

We are further of the view that the petitioner has abused the process of this Court in the name of public interest. In paragraph 5 of

his affidavit, the petitioner has averred that the unofficial respondents have already alienated the land to third parties by taking advantage of the Government Order dated 7-9-2002. However, he has conveniently omitted to mention the names of the persons to whom respondents 3 to 6 are said to have transferred the land. He has also omitted to implead those persons as party respondents. This shows that he wants an order for nullification of the decision taken by the Government and thereby cause an irreparable injury to unknown persons.

Even on merits, we are satisfied that the order impugned in the writ petition does not suffer from any legal infirmity warranting interference under Article 226 of the Constitution of India. Admittedly, the management of NFC, on whose behalf the land was acquired, has already given no objection for release of the land. This shows that the land belonging to respondent Nos.3 to 6 is not required for public purpose. In view of this, the discretion exercised by the State Government to release the land by exercising power under Section 48 (1) cannot be dubbed as arbitrary.

For the aforementioned reasons, the writ petition is dismissed. For filing frivolous and vexatious litigation, the petitioner is saddled with costs of Rs.25,000/-, which shall be deposited with the Andhra Pradesh State Legal Services Authority within one month from today.

The Member Secretary, Andhra Pradesh State Legal Services Authority is directed to inform the Court whether or not the petitioner has deposited the amount of costs, so that, if it becomes necessary, appropriate direction can be given for recovery of the amount of costs.

As a sequel to dismissal of the main writ petition, W.P.M.P.No.21532 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

23rd August, 2006

G.V.SEETHAPATHY, J

GRR